

**Internal Revenue Service**

**Department of the Treasury**

**District  
Director**

Date: **MAR 21 1995**

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(5) of the Internal Revenue Code.

You were incorporated on [REDACTED] under the laws of the state of [REDACTED]. Your Articles of Incorporation state your purposes are: "The promotion and development of the thoroughbred industry through the development of breeding and racing programs."

Your By-laws state in pertinent part that your purposes include:

1. To advertise, foster and promote the thoroughbred horse industry in the State of [REDACTED];
2. To gather and disseminate information concerning Thoroughbred horses;
3. To create, foster and encourage a better business climate for the industry;
4. To cooperate with various State and National agencies to promote [REDACTED] Thoroughbred farms and racing establishments as tourist attractions;
5. To encourage cooperation among breeders in the State of [REDACTED];
6. To give financial assistance and aid for the care, medical attention, hospitalization, funeral and burial of:
  - a. members, their spouses and children;
  - b. licensed stable employees of members;
  - c. worthy former members, their families, and former stable members
7. To institute or aid in any movement that will aid or protect the general welfare of the industry;
8. To represent the interests and property rights of members in regard to all matters including: purse monies, simulcasting, performance rights, etc.

Your brochure lists the following facts about your organization:

- . [REDACTED] sponsors the [REDACTED]
- . [REDACTED] sponsors Thoroughbred races and racing initiatives throughout [REDACTED]
- . [REDACTED] conducts a Stallion Service auction

- . [redacted] participates in the [redacted] Horsemen's Association
- . [redacted] provides a Horse Haulers Hotline

Your sources of financial support include income from auctions, dues, interest income, and the majority from futurity races.

You state the Auction gives broodmare owners an opportunity to buy stallion services at below market value and thus the owners can upgrade the quality of their horses at very reasonable prices.

You state that your major fund raiser is the [redacted] program. Owners of Thoroughbred stallions donate breeding services to you and you then sell those services at public auction. The offspring of these stallions are eligible to be nominated for [redacted] races which are held at the [redacted] Race Track. Purse distribution will be spread among the owners of horses that finish first through fifth. The fees are \$[redacted] to enter and \$[redacted] to start. Your organization retains \$[redacted] from each nomination. You sponsored [redacted] of these races during [redacted]. Two of the races had projected purses totalling \$[redacted]. Only members of your organization are allowed to enter a horse for these races.

You state your organization sponsors horse sales which are open to the public and that you hope to make a modest profit on sales but plans are to continue this service if only on a break even basis.

You state you offer a "[redacted]" which is a free service to all horseman designed to save people time and money.

Treasury Regulations Section 1.501(c)(5)-1 describes labor, agricultural and horticultural organizations as entitled to exemption from Federal income tax if they:

1. Do not have net earnings inuring to the benefit of any member, and
2. Have as their objectives the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

In *Forest City Livestock and Fair Co. v. Commissioner*, B.T.A. Memo, 32, 215 (P.H.)(1932) the court determined that an organization whose initial activities included holding agriculture fairs and stock shows as well as horse racing, but who discontinued the fairs and shows, was not tax exempt. The Court said: "It is presumed that Congress used the word 'agriculture' in its general accepted sense. It would be a far stretch of the imagination that would allow it to be used as a cloak to give exemptions from taxation to the racing business. While your organization does not devote all its activities to horse racing, it appears that a substantial portion of its time is devoted to horse racing."

Revenue Ruling 66-105, 1966-1 C.B. 145 - ruled that an organization of agricultural producers whose principal activity is marketing livestock for its members does not qualify for exemption under section 501(c)(5). The organization was formed to carry out a livestock improvement program and to sponsor and promote sales of livestock for its members. Although the sale of horses is not a primary activity of your organization, it exists just the same. The ruling stated that the sale of members' products was neither an object nor an activity within the purpose of a section

[REDACTED]

501(c)(5) agricultural organization.

REVENUE RULING 67-251, 1967-2 C.B. 196, Ruled that a provision of welfare aid and financial assistance to the members of a section 501(c)(6) organization constitutes inurement. This ruling also applies to section 501(c)(5) agricultural organizations. Your by-laws state you will provide financial assistance and other aid to your members. The purpose of a section 501(c)(5) agricultural organization is to better the conditions of the members as a whole and not to individual members. Thus the providing of financial assistance would constitute inurement and your organization would not qualify for tax exempt status.

To be tax-exempt as an agricultural organization under section 501(c)(5) an organization must have as its objective the betterment of the conditions of those engaged in agricultural pursuits and the net earnings of such organization must not inure to the benefit of its members.

As is stated in your Articles of Incorporation, your purpose is to develop the thoroughbred horse industry through the development of breeding and racing programs. While the development of breeding programs may be construed to be an activity that fulfills the purpose of an agricultural organization, the development of racing programs in which members share in the winnings of horse races, does not.

Accordingly, you are not entitled to recognition of exemption from federal income tax under section 501(c)(5) of the Internal Revenue Code.

You are required to file income tax returns for all the years since your formation.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely,

[REDACTED]

[REDACTED]

District Director

Enclosures:  
Publication 892  
Form 6018